

1 McGREGOR W. SCOTT  
United States Attorney  
2 BENJAMIN B. WAGNER  
Assistant U.S. Attorney  
3 501 I Street, suite 10-100  
Sacramento, California 95814  
4 Telephone: (916) 554-2700

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6  
7 IN THE UNITED STATES DISTRICT COURT FOR THE  
8 EASTERN DISTRICT OF CALIFORNIA  
9

10 UNITED STATES OF AMERICA, )  
11 Plaintiff, ) No. Cr. S-92-478 GEB  
12 v. ) MOTION FOR LEAVE TO DISMISS  
13 SALVADOR MENDOZA, Sr. ) PURSUANT TO RULE 48(a);  
14 Defendant. ) ORDER  
15 \_\_\_\_\_ )

16 The United States of America hereby moves pursuant to Rule  
17 48(a) of the Federal Rules of Criminal Procedure for leave to  
18 dismiss the Indictment in this case. In support thereof, the United  
19 States represents as follows:

20 This case was indicted on October 16, 1992. The defendant,  
21 Salvador Mendoza, along with his son, Salvador Mendoza, Jr., was  
22 charged with possession of cocaine with intent to distribute, and  
23 conspiracy to possess cocaine with intent to distribute. Defendant  
24 Mendoza was also charged with use of a firearm during a drug  
25 trafficking offense. Both defendants pleaded guilty to all charges  
26 against them in the indictment. Salvador Mendoza, Jr. was  
27 subsequently sentenced to 78 months in prison.

28 Salvador Mendoza, Sr. was scheduled to be sentenced on March

1 19, 1993. On or about March 15, 1993, he absconded, and a bench  
2 warrant was issued for his arrest. It is believed that he fled to  
3 Mexico. In the 12 years since Salvador Mendoza absconded, law  
4 enforcement has been unable to located the defendant, and it is  
5 believed that he is still in Mexico. The only remaining pending  
6 matter in this case is sentencing of Salvador Mendoza.

7 I have discussed this case with a supervisor at DEA, the  
8 investigating agency. Due to the staleness of the evidence, the  
9 likely loss of testimony in the intervening years, and the fact that  
10 it currently appears unlikely that the defendant will be apprehended  
11 and brought to this district in the near future, the Government  
12 seeks leave to dismiss the indictment as to defendant Salvador  
13 Mendoza in this case.

14  
15 Date: May 8, 2005

Respectfully Submitted,

16 McGREGOR W. SCOTT  
17 United States Attorney

18 /S/ Benjamin Wagner  
By: BENJAMIN B. WAGNER  
19 Assistant U.S. Attorney  
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10 UNITED STATES OF AMERICA, )  
11 Plaintiff, ) No. Cr. S-92-478 GEB  
12 v. ) ORDER DISMISSING INDICTMENT  
13 SALVADOR MENDOZA, )  
14 Defendant. )  
15 \_\_\_\_\_ )

16 The United States has moved pursuant to Rule 48(a) of the  
17 Federal Rules of Criminal Procedure for leave to dismiss the  
18 Indictment. Good cause having been shown, leave to dismiss the  
19 Indictment is **GRANTED**, and the Indictment is hereby **DISMISSED**.

20 Dated: May 9, 2005

21  
22 /s/ Garland E. Burrell, Jr.  
GARLAND E. BURRELL, JR.  
23 United States District Judge  
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